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## HOME (ELECTIONS) DEPARTMENT

### NOTIFICATION

The 3rd April, 2018

No. 3154– VE(A)-61/2018 /Elec.– The following Notification, dated the 12th March, 2018 of Election Commission of India, New Delhi is hereby republished in the Extraordinary Gazette of Odisha for general information.

Sd/-

SURENDRA KUMAR  
Chief Electoral Officer,  
Odisha

**ELECTION COMMISSION OF INDIA**  
**Nirvachan Sadan, Ashoka Road, New Delhi-110001**

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Dated 12 th March, 2018  
21, Phalguna, 1939 (Saka)

### NOTIFICATION

No. 82/ECI/LET/TERR/ES-II/OR-LA/ (20 & 17/2014)/2018: - In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby published the Order of the High Court of Orissa, dated 30.01.2018 passed in Election Petition No. 20 of 2014 (Sri Sahadev Xaxa -Vrs- Jogesh Kumar Singh & others) and Election Petition No. 17 of 2014 (Sri Ajay Kumar Patel Vrs Sri Jogesh Kumar Singh & others related to the 9-Sundargarh (ST) Assembly Constituency.

**HIGH COURT OF ORISSA: CUTTACK****ELPET NO.20 OF 2014 & ELPET NO.17 OF 2014**

In the matter of an application under Section 80 to 84 read with Sections 100,101 of the Representation of People Act, 1951 read with Orissa High Court Rules to regulate proceedings under the Representation of People Act, 1951.

**ELPET NO.20 OF 2014**

Sahadev Xaxa	....	.....	Petitioner
		Versus	
Jogesh K. Singh & Others	...	...	Respondents
For Petitioner	:		M/s. Gopal Agarwal, K. K. Mishra & T. Mishra
For opp. Parties	:		Mr. Pitambar Acharya, Senior Advocate.

**ELPET NO.17 OF 2014**

Ajay Ku. Patel....	.....		Petitioner
		Versus	
Jogesh K. Singh & Others	...	...	Respondents
For Petitioner	:		Mr. Dayananda Mohapatra
For opp. Parties	:		Mr. Pitambar Acharya, Senior Advocate

**PRESENT****THE HON'BLE SHRI JUSTICE B. K. NAYAK****Date of hearing: 20.12.2017:****Date of order: 30.01.2018**

**B. K. NAYAK. J.** These two Election Petitions have been filed challenging the election of Mr. Jogesh Kumar Singh, respondent no. 1 in both the election petitions, to 9-SunJargarh (ST) Assembly Constituency. The petitioner in Election Petition No.20 of 2014 is a defeated Candidate in the said election, where as the petitioner in ELEPET No. 17 of 2014 is a voter of the constituency. The Constituency has been reserved for Scheduled Tribe candidates. The election to the said constituency was held on 10.04.2014 and the result thereof was published on 16.05.2014 declaring respondent no. 1 elected. The petitioners in both the Election Petitions have challenged the election of respondent no. 1 on the common ground that respondent no. 1 does not belong to Schedule Tribe community and as such he was not eligible to file nomination and contest the election from 9- Sundargarh (ST) Assembly Constituency, which was reserved for Scheduled Tribes

Only.) It is alleged by both the petitioners that respondent no. 1 filed his nomination by submitting false and fabricated caste certificate (scheduled Tribe Certificate) which was obtained by him from the office of the Tahasildar, Lephripara by practising fraud and misrepresentation, and his nomination was illegally and improperly accepted by the Returning Officer which materially affected result of the election.

2. As per the averments made in paragraph-7 in ELPET No.20 of 2014, respondent no. 1 filed his nomination describing himself as S.T. candidate belonging to 'Bhuyan' community, on the basis of a caste certificate obtained by him from Tahasildar, Lephripara M.C.C.No.107 Of 2014 on the basis of R.O.R of Khata no.207/12 of village-Sargipali. He however concealed the said ...R.O.-R. in the affidavit filed with his nomination paper. He, however belongs to the caste of 'Khandayat Bhuyan' which is not a Scheduled Tribe. It is stated that in a series of Revenue records available in the office of Tahasildar, Lephripara, the caste of respondent no. 1 and the caste of his father, grandfather and great grandfather has been mentioned as 'khandayat Bhuyan'. By practising fraud and influencing the Revenue authorities, he managed to delete the word, 'Khandayat' from 'Khandayat Bhuyan' and got a mutation R.O.R. in Mutation Case No.162 of 1983. That however does not change the caste of respondent no. 1 from 'Khandayat Bhuyan' to 'Bhuyan', Thus, respondent no. 1 has succeeded in creating false entries in the R.O.R. with regard to his caste by colluding with the Revenue authorities and on that basis obtained the caste certificate indicating that he belongs to Schedule Tribe of Bhuyan' community. The correction of R.O.R. in respect of Khata No.207/ 12 and the grant of certificate in favour of respondent no. 1 was on the basis of the inquiry report prepared by the Revenue Inspector which was not consistent with the Revenue records available in the Tahasil office. It is thus stated that on the basis of such false and fabricated caste certificate respondent no. 1 filed his nomination as a S.T. candidate, and that though the petitioner raised objection before the Returning Officer, the latter improperly accepted the nomination of respondent no. 1 and as such the result of election has been materially affected.

The further plea of the petitioner in ELPET No.20 of 2014 is that respondent no. 1 along with his nomination filed affidavit in Form-26 as required under Section 33 of the Represent of the People Act, 1951 and in such affidavit he concealed the details of his spouse and dependants. He had not filled up the proforma in Form-26 prescribed by the Election Commission, wherein he is required to state , the name and address etc. of his spouse and dependants and concealed his immovable properties under Khata No.207 of mouza-Sargipali and khata no.75 of village-Sagjori and as such he violated the mandatory

requirement of law. For such violation, the Returning Officer should have rejected the nomination paper of respondent no.1, but he improperly accepted the same though it was required to be rejected. –

3. Similarly the petitioner in ELPET No.17 of 2014 has pleaded that respondent no. 1 is the son of late Renu Pratap Singh @, Renu Prasad Singh, who belonged to 'Kshyatriya / Khandayat Bhuyan' community, which comes under general caste. This fact is evident from the different record of rights standing in the name of Renu Pratap Singh. It is stated that the caste 'Khandayat Bhuyan' is not included in the list of Scheduled Tribes State of Orissa as per the Scheduled Castes and Scheduled Tribes Order, 1950 as amended from time to time. Respondent no. 1 fraudulently and by misrepresentation succeeded in obtaining caste certificate in his favour from office of the Tahasildar, Lephripara showing his caste as 'Bhuyan' for the purpose of filing nomination. The Returning Officer illegally and unlawfully accepted the nomination of respondent no. 1 even though objected to. It is further pleaded that respondent no. 1 did not mention in his affidavit in Form-26 about his immovable assets measuring Ac.0.30 under Khata no.-207/ 12 of mouza-Sargipalli appertaining to plot no.872/1405 which he inherited from his father. This was violation of the mandatory provision of law and as such his nomination was liable to be rejected.

The petitioners have accordingly prayed for declaring the election of respondent no. 1 void and further the petitioner in ELPET NO.17 of 2014 has prayed that respondent no.2 therein. Namely Kusum Tete another candidate should be declared elected.

4. Upon issuance of notice respondent no. 1 appeared and filed his written statement in both the cases taking almost identical pleas. Except Kusum Tete and Sahadev Xaxa (petitioner in ELPET No.20 of 2014 and respondent no.5 in ELPET No.17 of 2014) all other respondents have been set ex-parte.

In his written statement, respondent no.1 has denied the allegations made against him in the Election Petitions. It is stated that the election petitions do not satisfy the requirements of Sections 81 to 83, 117 and 123 of the Representation of the People Act, 1951 and as such liable to be dismissed preliminarily under Section 86 of the Act. It was also alleged that the election petitions do not disclose cause of action and nom appropriate material facts and concise statement have been pleaded. It is admitted however by him that 9 -Sundargarh Assembly Constituency is reserved for Scheduled Tribe candidates. It is stated that he belongs to 'Bhuyan' community, which is a Scheduled Tribe and his forefathers were tribal Zamindars in Sargipalli under erstwhile Gangpur State. His great grandfather was Gajaraj Singh Majhi and his grandfather's name is Dibyasankar Singh.

His father Renu Pratap Singh and aunt Nalini were the son and daughter of Dibyasankar Singh. They belonged to 'Bhuyan' community. It is further explained that the forefathers of respondent no.1 were the warriors and had given protection to the king from the wrath of Manhas for which the King conferred on them the title of 'Khandayat', i. e. 'youdha'. Therefore, the Tribe of respondent no.1 is 'Bhuyan' and the word 'Khandayat' is a prefix to the same. Therefore, the mention of 'Khandayat Bhuyan' as the caste of his great grandfather and forefathers in some of the Record of Rights has nothing to do with the determination of the tribe of respondent no.1. Whether a person is a Scheduled Tribe or not is dependent upon several factors like customs, usage or practice, system of marriage, festival, worship, social behavior, anthropological origin and several other factors. Respondent no. 1 and his family practice the tribal way of life. Though in some revenue records the tribe of his ancestor has been described as 'Khandayat Bhuyan', in most of the revenue records the tribe of his forefathers has been mentioned as 'Bhuyan'. It is stated that the caste certificate issued by the Tahasildar was on proper inquiry and there was no question of fraud and misrepresentation as alleged. It was issued by the competent authority following due procedure. It is further stated that the caste certificate issued by the competent authority is not open to be challenged by the petitioner. Any objection to the caste certificate or its genuineness can be decided only by the Scrutiny Committee constituted for the purpose as per the judgement of the apex Court in the case of **Madhuri Patil v. Additional Director of Tribal Development: AIR 1985 SC 94**.

It is further pleaded by respondent no.1 that his caste has been finally determined by the Collector, Sundargarh on 11.06.2010 in Misc Appeal No.2 of 2009 filed by one Bhuleswar Dehury. The Collector declared that respondent no. 1 is 'Bhuyan' by birth and the caste certificate issued in his favour is genuine. Once the competent court authorized under law has issued the caste certificate, the same cannot be challenged in an election petition. Further at the instance of one Bishnu Bihari Thakur in W.P.(C) No.31806 of 2011, seeking declaration that respondent no.1 is not a 'Bhuyan', the Hon'ble High Court directed the Collector, Sundargarh to decide the matter. Accordingly, the Collector after hearing and on perusal of all relevant documents by his order dated 12.01.2012 declared that respondent no. 1 is 'Bhuyan' by birth and the said order of the Collector has never been challenged. From his birth respondent no. 1 belongs to Scheduled Tribe of "Bhuyan" community and has been elected to Zila Parishad in 2002 and as Sarapanch of Sargipalli Grama Panchayat in 2007, as Director and President of Sargipalli LAMPS in 2007 as a Scheduled Tribe candidate. Similarly, he also contested and won the last Assembly Election from 9-Sundargarh (ST) Assembly Constituency in 2009 as S.T. candidate. It is

also stated that respondent no. has all through been recognized as a ST student throughout his academic career and has availed ST stipend and other facilities available to ST students during his school career.

It is further stated that respondent no.1 has not concealed any details regarding his spouse and dependant and property in his affidavit in Form-26 as pleaded by the petitioners and as such not violated any mandatory requirement of law. His affidavit in Form-26 is complete in all respects and confirms to the guidelines of the Election Commission of India.

The other allegations made in the election petitions have also been denied by respondent no.1. In essence it is pleaded by respondent no. 1 that he is a Scheduled Tribe belonging to 'Bhuyan' community and not Khandayat Bhuyan' and is therefore not disqualified for election from the reserved Constituency, and that his affidavit in Form-26 filled with his nomination paper is absolutely in accordance with law without any suppression and hence was rightly accepted by the Returning Officer.

**5.** Respondent nos.2 and 5 in ELPET NO.17 of 2014 have filed two separate written statements supporting the case of the election petitioners as made out in the election petitions.

**6.** On the basis of the pleadings of the parties, issues In both the election petitions have been framed which are identical. The issues are as follows:

"(1) Whether the election petition IS maintainable and whether it is free from defect of non-joinder of necessary party?

(2) Whether there exists any cause of action for the election petitioner?

(3) Whether the election petition is hit by section 86 of the Representation of People Act, 1951.

(4) Whether respondent no. 1 concealed the details of his spouse and dependants in the affidavit filed in Form-26 accompanying his nomination paper and consequently his nomination for election to 9-Sundargarh (ST) Assembly Constituency was improperly accepted by the Returning Officer and whether it has materially affected the result of election?

(5) Whether respondent no. 1 has suppressed his immovable properties situated in mouza-Sargipali pertaining to Khata No.207 / 12 in the affidavit filed alongwith his nomination paper and whether such suppression can be a ground for challenging his election?

(6) Whether respondent no. 1 managed to get false Scheduled Tribe certificate showing his caste as "Bhuyan" solely on the basis of R.O.R of khata No.207/12 and

submitted such false caste certificate along with his nomination paper though he does not belong to Scheduled Tribe and as such was ineligible to contest election for the constituency reserved for Scheduled Tribe?

- (7) Whether the result of election dated 16.05.2014 declaring respondent no. 1 as elected from 9- Sundargarh (ST) Assembly Constituency is void and liable to be set aside?
- (8) To what relief/reliefs the election petitioner IS entitled to.
- (9) Whether respondent No.2 in ELPET No.17 of 2014 is entitled to be declared elected and to what other relief the petitioner is entitled to?"

7. Both the election petitions were tried together. Three witnesses from the side of the petitioner were examined in each of the election petitions. Besides, the petitioners also proved several documents. Respondent no. 1 examined 32 witnesses on his behalf in the joint trial and also led into evidence several documents.

8. **Issue nos.2 and 3:** Issue nos.2 & 3 are whether the election petitions are hit by Section 86 of the Representation of People Act, 1951 and whether there is cause of action? These Issues were raised preliminarily by respondent no. 1 by filing Misc Case Nos.29 and 30 respectively in ELPET Nos.17 of 2014 and 20 of 2014 in his petitions filed under Order-6, Rule -16 and Order-7, Rule-11 of the Code of Civil Procedure praying for rejecting the election petitions on the ground that the petitions do not disclose any cause of action as per the pleadings in the election petitions, with further prayer to strike out the pleadings in certain paragraphs of the election petitions. Both those misc. cases were disposed of by order dated 28.10.2016 by rejecting the misc. cases with the finding that the pleadings in the election petitions do disclose cause of action and that the election petitions are not hit by Section 86 of the Representation of the People Act. The orders passed in the misc. cases by this Court were challenged by respondent no. 1 before the Hon 'ble Supreme Court in Civil Appeal Nos.7385 and 7386 of 2016 and both the Civil Appeals were dismissed with a direction to conclude the trial of the election petitions within a stipulated time.

In the aforesaid view of the matter, it is not necessary to further delve into these issues.

9. **Issue No. 6 :** This is the main Issue in the election petitions which relate to the question whether respondent no. 1, the elected candidate, belongs to Schedule Tribe community and as such was eligible to file nomination and contest the election from 9- Sundargarh (ST) Assembly Constituency which was reserved for Scheduled Tribe candidates. The pleadings of the petitioners in relation to this issue are shortly to the effect that the petitioner belongs to 'Khandayat Bhuyan' caste, which is not a Scheduled Tribe as

per the scheduled Castes and Scheduled Tribes Order, 1950, as amended from time to time for the State of Orissa and, therefore, he has not qualified to file nomination and contest the election from the reserved constituency. It is the further plea of the petitioners that the tribe 'Bhuyan' is a Scheduled Tribe as per the Scheduled Castes and Schedule Tribes Order, 1950, It is also pleaded by the petitioners that respondent no.1 on the basis of fraudulent and fabricated S T, certificate obtained from the Tahasildar, Lephripara filed nomination for the election, which was illegally and improperly accepted by the Returning Officer.

**10.** With regard to the issue in question a preliminary objection was raised in the written statement filed by respondent no. 1 that as per the decision of the Hon'ble Supreme Court in the case of Kumari Madhuri Patil and another v. Additional Commissioner, Tribal Development and others: 1994 (6) SCC 241, the question of caste/Tribe of respondent no.1 can only be decided by the State Level Scrutiny Committee, and that since the question of caste of respondent no.1 is still pending consideration before the State Level Scrutiny Committee, this Court (election Tribunal) has no power and jurisdiction to decide the question of Caste/Tribe of a person in the election petition. This question has already been set at rest in misc. case nos.29 and 30 of 2016 relying on the decision of the apex Court in the case of Satrucharla Vijaya Rama Raju v. Nimmka Jaya Raju and others: AIR 2006 SC 543 holding that the High Court hearing the election petition can decide the question of caste of the candidate where the cause of action is about the qualification or disqualification of the candidate to contest the election is based on his caste, in spite of fact that a caste certificate, as per the relevant Act or Rules of the State has been issued by the authority there under. To the same effect is the decision of the apex Court reported in (2005) 2 SCC-244: Soba Hymavathi v. Setti Gangadhar Swamy &Ors. The decision in the misc. cases having been confirmed by the Hon'ble Supreme Court in the Civil Appeals, it is no more open for the learned counsel for respondent n o. 1 to raise the same contention again.

**11.** Now the question is to see from the evidence on record as to whether respondent no.1 belongs to 'Bhuyan' community which is admittedly a Scheduled Tribe or he belongs to the caste of 'Khandyat Bhuyan' which is not a Scheduled Tribe. In case it is held that respondent no.1 is not a Scheduled Tribe, he would be disqualified to contest the election from the constituency in question which was reserved for Scheduled Tribes, and as such his election would be void.

**12.** The initial burden of proof to establish the disqualification with regard to the caste/Tribe of respondent no.1 is on the election petitioner. Thereafter the onus shifts to



the candidate (respondent no.1) to prove the facts which are within his special knowledge. However where both the parties adduce evidence, the question of burden of proof becomes academic. (see (2003) 8 SCC 673: *Susil Kumar v. Rakesh Kumar* and (2003) 8 SCC 204 :*Punit Rai v. Dinesh Choudhury*).

**13.** The question that falls for consideration is what parameters are to be applied in determining whether a person belongs to a notified Scheduled Tribe?

Broad parameters, which may be kept in view' to determine the question, have been set out in the decision of the Hon'ble Supreme Court reported in (2012) 1 SCC 113: *Anand v. Committee for Scrutiny and Verification of Tribe Claims* and others to the following effect:

“22. It is manifest from the aforeextracted paragraph that the genuineness of a caste claim has to be considered not only on a thorough examination of the documents submitted in support of the claim but also on the affinity test, which would include the anthropological and ethnological traits, etc. of the applicant- However, it is neither feasible nor desirable to lay down an absolute rule, which could be applied mechanically to examine a caste claim. Nevertheless, we feel that the following broad parameters could be kept in view while dealing with a caste claim:

- (i) While dealing with documentary evidence, greater reliance may be placed on pre-independence documents because they furnish a higher degree of probative value to the declaration of status of a caste, as compared to post-Independence documents. In case the applicant is the first generation ever to attend school, the availability of any documentary evidence becomes difficult, but that ipso facto does not call for the rejection of his claim. In fact, the mere fact that he is the first generation ever to attend school, some benefit of doubt in favour of the applicant may be given. Needless to add that in the event of a doubt on the credibility of a document, its veracity has to be tested on the basis of oral evidence, for which an opportunity has to be afforded to the applicant;
- (ii) While applying the affinity test, which focuses on the ethnological connection with the Scheduled Tribe, cautious approach has to be adopted. A few decades ago, when the tribes were somewhat immune to the cultural development happening around them, the affinity test

could serve as a determinative factor. However, with the migrations, modernization and contact with other communities, these communities tend to develop and adopt new traits which may not essentially match with the traditional characteristics of the tribe. Hence, the affinity test may not be regarded as a litmus test for establishing the link of the applicant with a Scheduled Tribe. Nevertheless, the claim by an applicant that he is a part of a Scheduled Tribe and is entitled to the benefit extended to that tribe, cannot per se be disregarded on the ground that his present traits do not match his tribe's peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc. Thus, the affinity test may be used to corroborate the documentary evidence and should not be the sole criteria to reject a claim."

**14.** It is thus clear that as far as documentary evidence is concerned, greater weightage shall be given to pre-independence documents as they furnish high degree of probable value. School records also may furnish proof in support or against the claim of caste status. While applying the affinity test, which focuses on the ethnological connection with the Scheduled Tribe, a conscious approach is necessary, for the reason that in the long past tribes were far away from civilization and immune to cultural development taking place in the society, but factors like migrations, modernization, coming in contact with other communities and exposure to modern civilization and developments which might have brought about a change in the ethnological traits, traditions and customs of the tribal communities cannot be lost sight of. Therefore, mere departure from or non-conformity with the age old anthropological and ethnological traits, rituals , customs, mode of marriage, funeral ceremonies, etc. cannot by itself be a ground to disregard the claim made by a person that he belongs to a Scheduled Tribe community.

**15.** In the decision reported in (2011) 6 see 430 :Kodikunnil Suresh @' J. Monian v. N.S.Saji Kumar and others, the Hon 'ble Supreme Court observed that the fact that electorate of the constituency reserved for Scheduled Caste gave majority verdict in his favour is a strong circumstance to establish his caste. To the same effect is the decision in (2003) 8 SCC 204: Punit Rai v. Dinesh Choudhury. However, it has been held in the case of Sobha Hymavati Devi (supra) that issuance of a caste certificate under the State Legislation- (in that Case the apex Court was dealing with the Andhra Pradesh Legislation)- does not embrace an election to the Legislative Assembly or to Parliament. Therefore, the High Court exercising jurisdiction under the Representation of the People

Act, 1951 can make an independent inquiry into the question of caste in spite of production of the caste certificate. It was further held that at best such a caste certificate would be used in evidence and its evidentiary value will have to be assessed in the light of other evidence led in the election petition.

**16.** Relying on the Records of Rights relating to immovable properties belonging to respondent no. 1 and his ancestors in different villages, where the caste of the recorded owner has been mentioned as 'Khandyat Bhuyan', the petitioners claim that respondent no.1 is not a 'Bhuyan' and, therefore, he is not a Scheduled Tribe. Ext-3 is the certified copy of the caste certificate issued by the Tahsildar, Lephripara in favour of respondent no. 1 describing him ' as Scheduled Tribe belonging to "Bhuyan'. The correctness of the status of respondent no. 1 in Ext.3 has been challenged on the ground that there was no proper inquiry by the Tahasildar and that on the very day the application for the caste certificate was filed, a report from the local Revenue Inspector was called for, who submitted report in favour of respondent no. 1 on that very day and that the certificate was also issued on that very day, which go to show that all formalities including filing of application , inquiry and grant of the caste certificate was done in one day, which is very much unusual. It is also contended that the report of the Revenue Inspector (Ext.2 /a) is based only on one of Record of Rights, in which the tribe of respondent no. 1 's father had been changed by way of mutation from 'Khandyat Bhuyan' to 'Bhuyan', and that a large number of Records of Rights of properties belonging to the family and ancestors of the respondent no. 1 in different villages, where the caste of the recorded owner was described as 'Khandyat Bhuyan', have not at all been taken into consideration. It is, therefore, contended that Ext.3 caste certificate was issued to respondent no. 1m without any inquiry.

Reliance has been placed on Hal Record of Rights vide Ext.6 standing in the name of Renu Pratap Singh, the father of respondent no. 1 where the caste of Renu Pratap has been described as 'Khandyat Bhuyan'. Similarly, Exts.7 and 8 are other R.O.Rs in the name of father of respondent no. 1 describing him as 'Khandyat Bhuyan'. Ext.9 is the R.O.R. standing in the joint names of respondent no. 1 and his brothers where they have been described as 'Khandyat Bhuyan'. Exts.10, 11 and 12 are the Record of Rights standing in the name of Gajaraj Singh Gadtia, the paternal great grandfather of respondent no.1, in which Gajraj Singh has been described as belonging to 'KhandyatBhuyan'. On the basis of such Records of Rights, P.W.1 stated that respondent no. 1 is not a 'Bhuyan', but a 'Khandyat Bhuyan', which is admittedly not a Scheduled Tribe and not included in the Constitution Scheduled Tribes Order. Contrary to the above evidence, respondent no. 1

has filed certified copies of RORs of Sabik settlement (Connolly settlement) of the Year 1924 vide Exts, B, C, D and E standing in the name of Gajaraj Singh, the great grandfather of respondent no. 1 and out of the said RORs, only in Ext-B the caste of Gajaraj Singh has been mentioned as 'Bhuayn' and in the other three exhibits his caste has not at all been mentioned. In Exts. F& G, which are the Hal RORs of 1976 standing in the name of the father of respondent no. 1, the caste of the owner has been described as 'Bhuyan'. Similarly, in Ext.H, the Hal ROR standing in the names of respondent no. 1's brothers and mother, their caste has been mentioned as 'Bhuyan'. Exts. B, C, D and E were challenged as not being the RORs of 1924, by the petitioner's counsel, for which respondent no. 1 subsequently filed certified copies thereof which were marked as Exts-Y, Y(I), Y (II) and Y(III). It is an undisputed position that Gajaraj Singh, the great grandfather of respondent no. 1, was a Zamindar under the King of the then princely State of Gangpur. Ext.B (certified copy whereof is Ext-Y) is the oldest Record of Rights standing in the name of great- grandfather of respondent no. 1 which shows his caste/ Tribe as 'Bhuyan', though three other old RORs of the same period do not at all indicate the caste. In case Gajaraj Singh belonged to 'Bhuyan' Tribe, the absence of noting the same in other three contemporaneous RORs belonging to the same person does not change his 'Bhuyan' Caste / Tribe. So far as some of the Hal RORs standing in the names of the father, respondent no. 1 himself and his brothers are concerned, in some of them, the caste has been described as 'Bhuyan' and in some others 'Khandyat Bhuyan'. It has been explained by respondent no.1 and also contended by his counsel that since 'Bhuyans' are classified into four categories, namely, 'Khandyat Bhuyan', 'Rajkoli Bhuyan', 'Pahadi Bhuyan' and 'Paraja Bhuyan' depending upon their occupations, the names assigned to different categories do not change their basic Tribe status, nor confer on them a new caste or Tribe status. It is further explained that the title, 'Khandayat' was conferred on the ancestors of respondent no. 1 by the then Ruler of Sundargarh and as such in some RORs the caste has been described as 'Khandyat Bhuyan'. It is further explained that 'Bhuyan' who were serving the King were known as 'Rajkul Bhuyan', the 'Bhuyans' who were doing agricultural work were known as 'Paraja Bhuyan' and the 'Bhuyans', who were living on the hills and collecting forest produce were called 'Pahadi Bhuyan'. Respondent no. 1 has also proved the Orissa District Gazetteer of Sundargarh district (published in Odia) by the General Administration Department of the Government of Orissa as Ext-Z-A. The said Gazetteer has been edited by Dr. K.S. Ganshan, IAS. The Gazetteer contains the history, geography, demography, religion, different caste or tribe, the Revenue Administration etc. of Sundargarh District. The brief description of different castes and tribes inhabiting in the

district with their ethnological and historical background and their occupation have been given in the Gazetteer. The Gazetteer recognized 'Bhuyan' as a Tribe. The description about 'Bhuyans' is given at page-114 of the Gazetteer. The classification of the 'Bhuyan' tribe on the basis of their occupation as 'Khandyat Bhuyan', 'Rajkul Bhuyan', 'Pahadi Bhuyan' and 'Paraja Bhuyan' also find mentioned therein. The Gazetteer goes to indicate that these four classifications do not constitute four distinct tribes. All four classifications belong to 'Bhuyan Tribe'. Therefore, it must be held that 'Khandyat Bhuyan' is not a distinct caste or tribe by itself.

**17.** The Original Gazetteer for Sundergarh District was published in English in 1975 by the State Government in Revenue Department, edited by Shri N. Senapati, I.C.S (Retd.), Chief Editor of Gazetteer Section, and the same has been proved as Ext- 'Q'. Ext-Q /1 is the entry at page- 120 relating to 'Bhuyan' Tribe. The same describes that the 'Bhuyan' Tribe has four classifications, namely, 'Pahari Bhuyan', 'Khandayat Bhuyan', 'Rajkoli Bhuyan' and 'Paraja Bhuyan', depending upon their occupation. The Gazetteer does not describe these classifications as different Castes or Tribes.

It is therefore clear that 'Khandayat Bhuyan' is neither a separate Caste or Tribe, but the members thereof belong to 'Bhuyan' Tribe. Therefore, the mention of Caste as 'Khandayat Bhuyan' in some recent RORs of Respondent No.1 or his father or other family members does not by itself represent that Respondent No.1 does not belongs to the 'Bhuyan' Tribe to which his paternal great grandfather belonged.

**18.** Ext-B, in which the great grandfather of respondent no. 1 has been described as a 'Bhuyan' is of the year 1924, which is much prior to independence of India and it has greater probative value .

**19.** The oral testimony of Respondent No.1 reveals that from his childhood he 'was admitted in the school as a Scheduled Tribe student and so also his brothers, and that they were in receipt of Scheduled Tribe stipend. A certificate dated 16.10.2009 issued by the Headmaster of Sargipali High School, Sundergarh has been proved as Ext- 'P', wherein it is mentioned that Respondent No. 1 and his brothers (all named) were getting stipend as ST (Bhuyan candidates) from the school from time to time as per the school records, i.e. , the acquaintance Roll etc. Respondent No.1 having admitted in his cross-examination that his brother applied for and got Ext-'P', certificate from the Headmaster and that the Headmaster has signed the certificate in his absence, it is contended on behalf of the petitioner that Ext- 'P', which is marked with objection, is not reliable. Because of such contention, during the course of hearing arguments, after closure of evidence, learned counsel for Respondent No.1 filed Misc. Case No.29 of 2017 under

Order-XVIII, Rule-17 of the C.P.C. for recalling R.W.1 to prove certified copies of acquaintance Roll of the School which would indicate that Respondent No.1 was in receipt of S.T. stipend as a student of the School. There is no reason to allow such petition at the fag end of the trial since it would further delay disposal of the election petitions. However the oral evidence of Respondent No.1 to the effect that he was receiving S.T. Stipend as a school student cannot be brushed aside since no effort has been made by the petitioners to prove the contrary. Even no suggestion has been given to Respondent No.1 that he was not receiving any S.T. stipend in school.

**20.** Most of the witnesses examined on behalf of respondent no.1 have deposed that respondent no.1 belongs to Schedule Tribe of 'Bhuyan Community' and none of them has stated that he does not belong to 'Bhuyan Community'. Similarly, the witnesses examined on behalf of the petitioners only state that respondent no.1 does not belong to Schedule Tribe of 'Bhuyan Community' but he belongs to the caste of 'Khandayat Bhuyan'. It has been seen above, that 'Khandayat Bhuyan' is not a caste or tribe by itself, but it is merely a classification representing a group of 'Bhuyan' Tribe. Making a classification of the Tribe 'Bhuyan' by adding a pre-fix to the name of the Tribe does not change the Tribe status of the person. Therefore, it cannot be said that respondent no. 1 does not belong to 'Bhuyan' Tribe.

**21.** Further, evidence has been led from the side of respondent no. 1 to the effect that there is an organization registered under the Societies Registration Act, by the name "All India Akhand Bhuyan MahaSamaj". There are also organizations like Block Level Bhuyan Samaj in the district of Sundargarh in Orissa. This is admitted by witnesses examined on behalf of respondent no.1. It was contended on behalf of the petitioners that there is no consistency in the evidence of the witnesses for respondent no.1 as to when the All India Akhand Bhuyan Maha Samaj was formed and what are its activities. R.W.2 is himself a member of 'Bhuyan Community' and aged 74 years. He is the Vice President of All India Akhanda Bhuyan Maha Samaj. He is also a member of Zilla Parishad of Hemgiri. Some of the witnesses of respondent no. 1 are also members of All India Akhand Bhuyan Maha Samaj. Evidence of some witnesses show that respondent no. 1 is one of the advisers of All India Akhand Bhuyan Maha Samaj. Most of the witnesses of respondent no.1 belong to 'Bhuyan' Community as stated by them and they recognize respondent no.1 as a Member of the 'Bhuyan' Tribe. No independent 'Bhuyan' Tribe person has been examined as witness on behalf of the petitioners.

**22.** It also transpires from the evidence led from the side of respondent no.1, which has not been disputed, that from time to time respondent no.1 got elected as a Sarpanch of

Grama Panchayat and Member of Sundargarh Zila Parishad from Lephripara-B Zone, which were reserved for S.T. candidates. Similarly respondent no. 1 was also elected to the State Legislative Assembly in 2009 from the very same reserved constituency as a Scheduled Tribe candidate. All this goes to show that from time to time for election to Schedule Tribe reserved constituencies at Panchayat Level and also to the State Legislature respondent no.1 contested and got elected as a Scheduled Tribe candidate.

**23.** With regard to the proof of marriage, customs and tradition of Tribal community, respondent no. 1 has in his evidence stated that his father, he himself and his brother Ritesh Singh married in Khetriya (Raj put) Families. It is stated further by him that is 'Bhuyan' community marriage is done by arrangement, but he is unable to state as to what customary rights are performed in marriages of 'Bhuyan Community'. This is so because he himself got married in Rajput family. His evidence and the evidence of some witnesses go to show that because he married outside the 'Bhuyan Community' in a Rajput family, the Bhuyan Samaj imposed fine on him. This would otherwise mean that traditionally though marriages of Bhuyans were confined to their community only, over the passage of time Bhuyans are also accepting and practising other types of rituals and marriages done by the Hindus. The departure from strict tradition and custom in marriages IS not being taken seriously and is being condoned only by imposition of some fine by the Community Samaj. This is the impact of modernization and mingling with other Hindu Customs and tradition and a result of cultural development. It is also stated by respondent no.1 in his cross-examination that the surname of some Bhuyans is 'KALO' who used to act as priest for worshiping Gods and Goddess of the 'Bhuyan Community', but of late Brahamins and Dheuris are also acting as priests for Bhuyans. It appears from the evidence of other witnesses also, that now a days there is no strict adherence to old customs and tradition and rites by the Bhuyan Tribe. Therefore, as has been held by the apex Court in the case of **Anand** (supra) the affinity test may not be regarded as a litmus test for establishing the link of respondent no.1 with the Bhuyan Tribe. Even though his present traits do not match with the peculiar anthropological and ethological traits of the Bhuyan Tribe, in the light of the discussions and analysis made in the preceding paragraphs it has to be held that respondent no.1 is a Scheduled Tribe of 'Bhuyan' Community. The issuance of several caste certificates by the competent authorities under the relevant State Rules and legislation describing respondent no.1 as a Scheduled Tribe belonging to 'Bhuyan' Community cannot therefore be faulted. It is, therefore, held that respondent no.1 is a 'Bhuyan' Scheduled Tribe. Issue no.6 is answered accordingly.

**24. Issue Nos.4, 5 and 7:-** Issue nos.4 and 5 relate to the questions whether respondent no.1 concealed the details of his spouse and dependants in the affidavit filed in Form-26 accompanying his nomination paper and also suppressed his immovable properties pertaining to khata no.207/12 of village-Sargipali and khata no.75 of village-Sagjori . While the petitioners pleaded about the aforesaid suppression in the affidavit filed by respondent no.1 with his nomination paper, in his written statement respondent no. 1 denied the aforesaid pleas. In their evidence affidavit, the petitioners have stated about such suppression by respondent no. 1. The Sub-Collector, Sundargarh-cum-Returning Officer was examined as P.W.3 in ELPET No.20 of 2014 and he produced and proved the nomination paper of respondent no.1 as Ext.22 and the decision of the then Returning Officer in respect thereto as Ext.22/1. Ext.23 is 'the order-sheet dated 24 .04.2014 passed by the Returning Officer and Ext.24 is the affidavit in Form-26 which respondent no.1 filed with his nomination paper. Along with his nomination paper, he also filed the ticket in Form-A and B, Xerox certified copy of his caste certificate and original Caste certificate. Although P.W.3 stated, that he does not have personal knowledge about filing of the aforesaid nomination and affidavit, but he stated that he v.-as acquainted with the handwriting and signature of the then Returning Officer, Mr. Anam Chandra Patra. To a Court question , he stated that he obtained those documents, which he produced and proved, by obtaining the same on requisition from the District Election Officer, who is the custodian of those documents.

Ext.24, the affidavit in Form-26 filed by respondent no.1, indicates that there is no mention of the names and other particulars of his wife and other dependants, though in his evidence he has admitted that he has a wife , one son and one daughter. Similarly, in the affidavit there is no mention of his properties pertaining to Khata No .207/12 of village-Sargipali and khata no.75 of village-Sagjori. He, however, volunteered that khata no.207 / 12 is the property which had already been sold by his father. But no sale deed was produced, nor was he able to state the date of sale. On the other hand, he admitted that he filed ROR of Khata no. 207 / 12 before the Tahasildar, Lephripara, along with his application for issue of caste certificate in the year 2014. He also admitted that he has paid land *revenue vide* receipt (Ext.2-b) in respect of the land *covered* under that khata. He also admitted that he has not mentioned in his affidavit (Ext.24) about his property under khata no.75 of mouza Sagjori. It is also admitted by respondent no.1 in evidence that in his affidavit in Form-26 (Ext.24) he has suppressed the names and other particulars of his spouse and children and his properties covered under the said two Holdings/ Khatas.



**25.** It was contended by the learned counsel for the petitioners that in spite of the suppression of important information in the affidavit of respondent no.1 as aforesaid, the Returning Officer at the behest of respondent no. 1 illegally and improperly accepted his nomination and allowed him to contest the election, and because of such suppression his nomination was liable to be rejected and his election is liable to be declared void. Learned counsel for respondent no.1, on the other hand, contended that information, which are said to be suppressed in the affidavit in Form-26, were not material information and, therefore such suppression does not necessitate rejection of nomination, and as such the election of respondent no.1 cannot be declared void on that ground.

**26.** Section 100 (1) provides for the grounds on which the election of a returned candidate can be declared void. Clause (d) of sub-section (1) of Section 100 provides the ground for declaring the election of the returned candidate void when the result of the election has been materially affected, among others (i) by the improper acceptance of nomination, or (iv) by any non-compliance with the provisions of the Constitution or of the Act or of any Rules or orders made under the Act. Filing of affidavit in Form-26, which is the prescribed form, is required under Rule (3) of Conduct of Election Rules, 1961 read with Section 33 and 33-A of the Representation of the People Act, 1951. The requirement for furnishing information as per Form-26 is necessary because the voter has a fundamental right to information about the contesting candidates whereupon he has to decide whether he should cast his vote in favour of a candidate or not. This has been so held in the case of ***Union of India v. Association for Democratic Reforms; reported in (2002) 5 see 294 and Peoples Union for Civil Liberties v. Union of India:2003 4 SCC 399.***

**27.** In the case of *Kisan Shankar Kathore v. Arun Dattatray Sawant and Others:MANU/SC 0462/2014*, also reported in *AIR 2014 se 2069*, it was held that if the Election Tribunal finds that the candidate had suppressed material information in the affidavit filed along with the nomination, the election will be set aside. In the said case, the election of the returned candidate to the Legislative Assembly was challenged by a voter, who contended that material information relating to dues to the Maharashtra State Electricity Board and details of movable and immovable property of candidate's wife were suppressed by the candidate in the affidavit filed along with the nomination and hence, the Returning Officer should not have accepted the nomination. The High Court accepted the contention and set aside the election. The Returned candidate took the matter in appeal to the Supreme Court contending that there was substantial compliance inasmuch as he had added the value of the properties of his wife along with that of his own and that the

amount due to MSEB is in dispute and hence, it was not revealed. The Hon'ble Supreme Court held that once it is found that the facts omitted to be mentioned in the affidavit is material information, the Court will have to set aside the election on the ground that the Returning Officer should not *have* accepted the nomination, though the Returning Officer cannot go into the question of suppression of material information at the time of scrutiny. It was further held that the examination regarding suppression of material information can be undertaken only in an election petition. Accordingly, the appeal filed by the returned candidate was dismissed.

For holding as above, the Hon'ble Supreme Court relied on the decision in the case of *Union of India v. Association for Democratic Reforms!* (supra), wherein it was held that it was incumbent upon every candidate, who is contesting election, to give information about his assets and other affairs, which requirement is not only essential part of fair and free election inasmuch as, every voter has right to know about these details of the candidates, such a requirement is also covered by freedom of speech granted under Article , 19 (1) (a) of the Constitution of India.

**28.** In a very recent decision dated 28.10.2016 in *Civil Appeal Nos.2649 of 2016: Sri Mairembam Prithviraj @ Prithviraj Sing v. Shri Pukhrem Sharatchandra Singh*, the Hon'ble Supreme Court relied upon the decision in the case of *Kisan Shankar Kathore* (supra) and other earlier decisions and declared the election of the returned candidate void for not furnishing correct information about his educational qualification in affidavit in Form-26 filed along with his nomination.

**29.** In view of the law laid down in the aforesaid judgments and keeping in view the admitted facts that respondent no.1 suppressed the names and other particulars of his spouse and other dependants and his immovable properties under two Holdings, the - suppression was of substantial character and as such his nomination was liable to be rejected. Since his nomination did not deserve acceptance, he would not have been able to contest the election and the votes secured by him would have gone to any other candidate or candidates. Therefore, the improper acceptance of his nomination for suppression of material information in the affidavit, the result of election has been materially affected. Therefore, the election of respondent no.1 to 9-Sundargarh (ST) Assembly Constituency must be declared to be void and liable to be set aside.

**30. Issue Nos. 8 and 9 :** Issue no.8 relates to the reliefs to be granted to the petitioners and issue no.9 relates to the additional prayer of election petitioner in ELPET No.17 of 2014 to declare respondent no.2 therein elected . Though the election of respondent no.1

is void and liable to be set aside, the further prayer of petitioner in ELPET No.17 of 2014 to declare respondent no 2, therein elected, cannot be granted for the reason that it is not known as to which other' candidate(s) would have secured the largest number of votes if the nomination of respondent no.1 would have been rejected.

Hence ordered.

### **ORDER**

In the result, ELPET NO.20 of 2014 is allowed and ELPET No.17 of 2014 is partly allowed and it is declared that the election of respondent no.1 to 9-Sundargarh (ST) Assembly Constituency held in April, 2014 is void and the same is set aside. Resultantly a casual vacancy to the said constituency has occurred.

Pronounced in open Court on this the 30th Day of January, 2018.

Place: Cuttack

Date: 30<sup>th</sup> January, 2018

#### **List of witnesses for the petitioner in ELPET No.20 of 2014**

P.W.1	Sahadev Xaxa
P.W.2	Biswajit Thakur
P.W.3	Sachidananda Sahoo

#### **List of witnesses for the petitioner in ELPET No.17 of 2014.**

P.W.1.	Ajaya Kumar Patel
P.W.2.	Susim Kumar Dash
P.W.3.	Bishnu Bihari Thakur

#### **List of witnesses for Respondent no. 1 in ELPET Nos.20 & 17 of 2014**

R.W.1	Jogesh Kumar Singh
R.W.2	Rabiratna Patel
R.W.3	Sudhakar Pande
R.W.4.	Pratap Narayan Singh.
R.W.S.	Dr. Prafulla Majhi.
R.W.6.	Nimai Charan Naik
R.W.7.	Sunil Kumar Kalo
R.W.8.	Dharam Singh Kalo
R.W.9.	Nityananda Majhi
R.W.10.	Dharanidhar Patel

R.W.II.	Damodar Majhi.
R.W.12.	Jibadhan Pandey
R.W.13.	Santosh Kumar Patel.
R.W.14.	Baikuntha Ganju
R.W.15.	Pabitra Khati.
R.W.16.	Dhaneswar Kalo
R.W.17.	Sukman Bhitria
R.W.18.	Ratnakar Pradhan
R.W.19.	Mitrabhanu Kalo
R.W.20.	Pradipta Kumar Naik.
R.W.21.	Mukharam Naik.
R.W.22.	Bhabani Sankar Majhi.
R.W.23.	Sunil Kumar Singh
R.W.24.	Jogeswar Thakur
R.W.25.	Bimbadhar Amat.
R.W.26.	Prafulla Majhi.
R.W.27.	Santosh Kumar Barik.
R.W.28.	Sumit Kumar Singh.
R.W.29.	Hrushikesh Amat
R.W.30.	Santosh Kumar Pradhan
R.W.31.	Gopal Singh
R.W.32.	Benudhar Singh

**Documents exhibited on behalf of the petitioner in ELPET No.17 of 2014.**

Ext. 1.	Certified copy of Sabik Khatian No.1 of mouza-Sargipali.
Ext.2.	Certified copy of Sabik Khatian No.2 of mouza-Lakdega.
Ext.3.	Certified copy of khatian no. 1 of mouza-Chakuli.
Ext.4.	Certified copy of khatian no. 1 of mouza-Sagjori.
Ext.5.	Certified copy of khatian no.2 of mouza-Jhurimal.
Ext.6.	Certified copy of R.O.R. of Hal Settlement in Khata no.17 of mouza-Chakuli.
Ext. 7.	Certified copy of R.O.R. Khatian no.44 of mouza-Chakuli.
Ext. 8.	Certified copy of Hal Khata No.173 of mouza-Aunlabahal.
Ext.9 .	Certified copy of Hall khata No.91 of Mouza-Sargipalli.
Ext.10.	Certified copy of the order of the Collector, Sundargarh in C.A.No.1316 of 2014.

- Ext.1 I. Copy of letter no.119 dated 19.08.2011 of District Office, Sundargarh (District Record Room)
- Ext.12. Original Voter identity card of Ajay Kumar Patel bearing NO.USB0640243.
- Ext.13. Certified copy of sale deed no.106 dated 22.5.2007

**Documents exhibited on behalf of the petitioner in ELPET No.20 of 2014.**

- Ext.1 Certified copy of order sheet dated 15.03.2014 in MC NO.107 of 20 14.
- Ext.2 Certified copy of application filed by the Respondent No.1
- Ext.2 / a. Report of the Revenue Inspector, Badbhanga
- Ext.2/b. Rent receipt
- Ext.2/c. ROR
- Ext.2/d. Earlier Caste Certificate
- Ext.3 Certified copy of the Caste Certificate issued by the Tahasildar, Lephripara in favour of Respondent No. I.
- Ext.4. Certified copy of the entire order sheet in Mutation Case No.162 of 1983
- Ext.5. Certified copy of ROR in Khata No.207 of 2012 of Mouza Sargipali
- Ext.6. Certified copy of ROR in Khata No.213 of Mouza Sargipali
- Ext.7. Certified copy of ROR in Khata NoA4 of Mouza Chakuli
- Ext.8. Certified copy of ROR in Khata No.162 of 1941
- Ext. 9. Certified copy of ROR in Khata NO.151 of Mouza: Zhurimal
- Ext. 10 Sabik ROR of Khata No.1 of Mouza: Sargipali
- Ext. 11 Sabik ROR of Khata No.16 of Mouza: Kuturma
- Ext. 12 Sabik ROR of Khata No.2 of Aunlabahal
- Ext.13 Certified copy of Munsarim's mistake list in Sabik Plot No.12
- Ext. 13/a. Endorsement with regard to caste
- Ext. 14 ROR in Khata No.S8 of Mouza:Lokdega
- Ext. 15 Certified copy of order sheet and R.I. report in Mutation Case No. 196 of 2000
- Ext. 15/a Declaration of non SC and non ST
- Ext. 16 Certified copy of RSD dtd. 19.02.2011
- Ext. 16 Certified copy of ROR of Sabik Khata No.2 of Mouza: Jhurimal
- Ext.17 Certified copy of ROR in Khata No.2 of Mouza : Lokdega
- Ext.18 Certified copy of ROR in khata No .2 of Mouza: Giringikela
- Ext.19 Certified copy of ROR in Khata No. 1 of Mouza: Tilia
- Ext.20 Certified copy of ROR in Khata Ko.17 of Mouza: Chakuli

Ext.21	Copy downloaded from website of the Election Commission of India
Ext.22	Nomination paper filed by Respondent No.1
Ext.22/1	Decision of the then Returning Officer, Sundergarh
Ext.23	Order sheet dated 24.03.2014
Ext.24	Affidavit of Jogesh Kumar Singh
Ext.25	Application of Jogesh Kumar Singh along Ticket in Form No.A & B
Ext.26	Xerox certified copy of caste certificate of Jogesh Kumar Singh.
Ext.27	Application dtd.19.03.2014 of Jogesh Kumar Singh
Ext.27/1	Caste Certificate
Ext. 28	IInd set of Nomination Paper with affidavit filed by Respondent No. I
Ext.29	IIIRD set of nomination paper with Xerox copy of affidavit and other documents.

**Documents exhibited on behalf of respondent no. 1 in election petitions.**

Ext. A	Voter identity card of Jogesh Kumar Singh.
Ext. B	Original Sabik RO.R Khatian No.44 of mouza-Jhurimal.
Ext. C	Original Sabik RO.R. Khatian nO.53 of Mouza-Ainlabahal.
Ext. D.	Original Sabik RO.R Khatian No.50 of Mouza-Sargipali.
Ext. E	Original Sabik ROR Khatian No.49 of Mouza-Bijadiha.
Ext. F	Certified copy of ROR in Hal Khata no.158 of Mouza-Kuturuma.
Ext. G	Certified copy of RO.R Khatian NO.98 of mouza-Sagajori.
Ext. H	Original R.O.R in khatian No.180/ 580 of mouza-Gopalpur.
Ext. J	Certified copy of RO.R in Khatian No.385/236 of Mouza-Tantria.
Ext. K	Original RO.R. Khatian No .77 /116 of Mouza-Lokdega.
Ext. L	Certified copy issued by Collector, Sundargarh in Misc Appeal No.2 of 2009.
Ext. M	Original Caste Certificate of Jogesh Kumar Singh.
Ext. N.	Certified copy of the Collector, Sundarh in C. A. No .68 / 2011.
Ext. P.	Certificate issued by the Headmaster, Sargipali High School.
Ext. P/1	Signature of the Headmaster, Sargipali High School.
Ext. Q.	Orissa District Gazetteers Book written by Sri Nilamani Senpati.
Ext. Q/1.	Page No.120 of the Orissa District Gazetteer Book.
Ext. R.	Odia Book Title Aama Zilla Sundargarh
Ext. R/1.	Page No.71 of the Book "Aama Zilla -Sundargah.
Ext. S	R.O.R. of Khata no.88 of mouza - Jilia.
Ext. T	Certified copy of the order passed by the Collector, Sundargrh.

Ext. T/1	Order-sheet of Misc. Case No. 1 of 2009.
Ext. T/2	Misc. Certificate in favour of Jogesh Kumar Singh.
Ext. T/3	Enquiry report of Tahasildar, Lephripara.
Ext. T/4	Report of Tahasildar, Balisankara.
Ext. T/5	Report of Tahasildar, Balisankar
Ext. T/6	Report of Tahasildar, Lephripara
Ext. T 17	Enquiry report in caste Certificate by Tahasildar, Jangarpali
Ext. T/ 8.	Enquiry report of Revenue Inspector, Ujalpur.
Ext. T/ 9	Copy of caste certificate of Jogesh Kumar Singh in M.C. No.1 of 2009.
Ext. V.	Certified copy of orders-sheet by Thasildar, Lephripara in M.C. No.107 of 2014.
Ext. V/I	Certified copy of report of R.I.Raidihi submitted to Tahasildar, Lephripara.
Ext. W	R.O.R. in khata no.747/3846 of mouza-Jharsuguda.
Ext. X	Annual Calender-2015
Ext .X/1.	Name of Jogesh Kumar Singh as 'Advisor Member.
Ext. Y	Certified copy of R.O.R Khatian No.1, mouza-Jhurimal.
Ext. Y-I	Certified copy of RO.R Khatian No.1, mouza-Aunalabahal.
Ext. Y-II	Certified copy of RO.R of Khatian No.1 , Mouza-Sargipalli.
Ext. Y-III	Certified copy of RO.R of Khata No.1 of Mouza- Bijadihi.
Ext. Z	Original RO.R Khatian No.39 of mouza -Siarmal.
Ext.Z-1	Original Caste Certificate of Rabiratna Patel.
Ext. Q / 2	Page no.68 of Ext. Q stated in para-3.
Ext. Q / 3	Page No.69 of Ext. 'Q'
Ext. Q / 4	Page No.70 of Ext. 'Q' stated Pratap Majhi was the Zamindar of Sargipali.
Ext. ZA	Odia Version of the Odisha District Gazetteer:
Ext. ZA/1	Page No.67 of Ext. 'ZA' book
Ext. ZA/2.	Page NO.67 of Ext. 'ZA' book.
Ext. ZA/3	Page No.68 of Ext. 'ZA' book.
Ext. ZB	Bengal Gazetteers, Feudatory States of Orissa Book.
Ext. ZB/1	The paragraph in the pages-178 and 179 of the Book.
Ext. ZC	Certified copy of the khatian already marked as Ext. B
Ext. ZC-I	Certified copy of the khatian already marked as Ext. 'C'
Ext. ZC-II	Certified copy of R. O.R. already marked as Ext. 'D'
Ext.ZC-III	Certified copy of R.O.R. already marked as Ext. 'E'

Ext. ZD      Xerox copy of the promotion order of the witness  
                 Mr. Pratap Narayan Singh 'ZD'  
Ext. ZW      Xerox certified copy of khatian no.91 of mouza-Sargipalli  
Ext. ZF      Certified copy of R.O .R. khatian no.368 of mouza-Kulabira.  
Ext. ZF-I     Corrected and remarked as Ext. ZF as per order no.69 dt. 27.4.2016

Sd/- B. K. Nayak, J

Odisha High Court, Cuttack  
The 30<sup>th</sup> Jan, 2018 / GS

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By order,  
  
(R. K. SRIVASTAVA)  
Sr. PRINCIPAL SECRETARY